

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

JAMILA DANISHWAR, M.D.

File No. 8002014005866

**Physician's and Surgeon's
Certificate No. A102800**

Respondent

DECISION

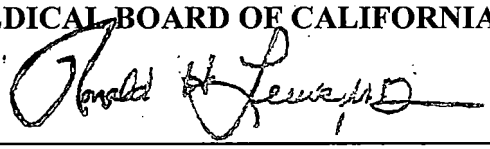
The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 30, 2018.

IT IS SO ORDERED February 28, 2018.

MEDICAL BOARD OF CALIFORNIA

By:



**Ronald H. Lewis, Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **JAMILA DANISHWAR, M.D.**
15 **2185 Citracado Parkway**
Escondido, CA 92029

16 **Physician's and Surgeon's Certificate**
17 **No. A102800,**

18 Respondent.

Case No. 800-2014-005866

OAH No. 2017080413

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Karolyn M.
25 Westfall, Deputy Attorney General.

26 2. Respondent Jamila Danishwar, M.D. (Respondent) is represented in this proceeding
27 by attorney Carlo Coppo, Esq., whose address is: 1925 Palomar Oaks Way, Ste. 220, Carlsbad,
28 CA, 92008.

3. On or about February 22, 2008, the Board issued Physician's and Surgeon's Certificate No. A102800 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-005866, and will expire on August 31, 2019, unless renewed.

JURISDICTION

4. On May 24, 2017, Accusation No. 800-2014-005866 was filed against Respondent before the Board. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on May 24, 2017. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2014-005866 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-005866. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent agrees that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2014-005866, and that she has thereby subjected her Physician's and Surgeon's Certificate No.

1 A102800 to disciplinary action. Respondent further agrees to be bound by the Board's imposition
2 of discipline as set forth in the Disciplinary Order below.

3 9. Respondent agrees that if an accusation is filed against her before the Board, or in any
4 other proceeding before the Board, all of the charges and allegations contained in Accusation No.
5 800-2014-005866 shall be deemed true, correct, and fully admitted by Respondent for purposes of
6 any such proceeding or any other licensing proceeding involving Respondent in the State of
7 California.

8 CONTINGENCY

9 10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
10 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
11 submitted to the Board for its consideration in the above-entitled matter and, further, that the
12 Board shall have a reasonable period of time in which to consider and act on this Stipulated
13 Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully
14 understands and agrees that she may not withdraw her agreement or seek to rescind this
15 stipulation prior to the time the Board considers and acts upon it.

16 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
17 and void and not binding upon the parties unless approved and adopted by the Board, except for
18 this paragraph, which shall remain in full force and effect. Respondent fully understands and
19 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
20 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
21 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
22 the Board, any member thereof, and/or any other person from future participation in this or any
23 other matter affecting or involving Respondent. In the event that the Board does not, in its
24 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
25 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
26 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
27 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
28 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any

1 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
2 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

3 **ADDITIONAL PROVISIONS**

4 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
5 be an integrated writing representing the complete, final and exclusive embodiment of the
6 agreements of the parties in the above-entitled matter.

7 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
8 including copies of the signatures of the parties, may be used in lieu of original documents and
9 signatures and, further, that such copies shall have the same force and effect as originals.

10 14. In consideration of the foregoing admissions and stipulations, the parties agree the
11 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
12 the following Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Respondent Jamila Danishwar, M.D.'s Physician's and
15 Surgeon's Certificate No. A102800, shall be and is hereby Publicly Reprimanded pursuant to
16 California Business and Professions Code section 2227, subdivision (a)(4). This Public
17 Reprimand, which is issued in connection with Accusation No. 800-2014-005866, is as follows:

18 On November 10, 2011, you provided treatment to patient J.G., after she was
19 transported to the emergency room in cervical spine precautions by paramedics
20 following a motor vehicle accident. Patient J.G. was initially evaluated by another
21 emergency department physician who cleared the patient from spinal precautions and
22 then transferred the patient to you. Patient J.G. informed you that she had previously
23 been diagnosed with ankylosing spondylitis. You evaluated the patient, provided her
24 with pain medication, and ordered radiologic imaging of her cervical spine and chest.
25 During this encounter, you failed to maintain cervical spinal immobilization
26 precautions on the patient in the presence of acute neck pain, focal neurologic
27 complaints, and history of trauma. After reviewing the radiologist's preliminary
28 impression of the x-rays, which noted that "C6-C7 not visible otherwise no fractures,"

1 you discharged the patient, despite failing to obtain appropriate and adequate imaging
2 of the patient's cervical spine.

3 In addition, your medical record for the patient encounter did not contain
4 positive or negative findings, a complete neurological examination, any reference to
5 the patient's pre-existing ankylosing spondylitis, and your medical decision-making
6 was not thoroughly documented.

7 1. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
8 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
9 program approved in advance by the Board or its designee. Respondent shall successfully
10 complete the program not later than six (6) months after Respondent's initial enrollment unless
11 the Board or its designee agrees in writing to an extension of that time.

12 The program shall consist of a comprehensive assessment of Respondent's physical and
13 mental health and the six general domains of clinical competence as defined by the Accreditation
14 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
15 Respondent's current or intended area of practice. The program shall take into account data
16 obtained from the pre-assessment, self-report forms and interview, and the Decision, Accusation,
17 and any other information that the Board or its designee deems relevant. The program shall
18 require Respondent's on-site participation for a minimum of three (3) and no more than five (5)
19 days as determined by the program for the assessment and clinical education evaluation.
20 Respondent shall pay all expenses associated with the clinical competence assessment program.

21 At the end of the evaluation, the program will submit a report to the Board or its designee
22 which unequivocally states whether the Respondent has demonstrated the ability to practice
23 safely and independently. Based on Respondent's performance on the clinical competence
24 assessment, the program will advise the Board or its designee of its recommendation(s) for the
25 scope and length of any additional educational or clinical training, evaluation or treatment for any
26 medical condition or psychological condition, or anything else affecting Respondent's practice of
27 medicine. Respondent shall comply with the program's recommendations.

28 Determination as to whether Respondent successfully completed the clinical competence

1 assessment program is solely within the program's jurisdiction.

2 If Respondent fails to enroll, participate in, or successfully complete the clinical
3 competence assessment program within the designated time period, Respondent shall receive a
4 notification from the Board or its designee to cease the practice of medicine within three (3)
5 calendar days after being so notified. Respondent shall not resume the practice of medicine until
6 enrollment or participation in the outstanding portions of the clinical competence assessment
7 program have been completed. If Respondent did not successfully complete the clinical
8 competence assessment program, Respondent shall not resume the practice of medicine until a
9 final decision has been rendered on the Accusation.

10 Any failure to fully comply with this term and condition of the Disciplinary Order shall
11 constitute unprofessional conduct and will subject Respondent's Physician's and Surgeon's
12 Certificate to further disciplinary action.

13 2. COMMUNITY SERVICE - FREE SERVICES. Respondent shall, within one year of
14 the effective date of this Decision, provide eighty (80) hours of free services (e.g., medical or
15 nonmedical) to a community or non-profit organization.

16 Prior to engaging in any community service, Respondent shall provide a true copy of the
17 Decision to the chief of staff, director, office manager, program manager, officer, or the chief
18 executive officer at every community or non-profit organization where Respondent provides
19 community service and shall submit proof of compliance to the Board or its designee within 15
20 calendar days. This condition shall also apply to any change(s) in community service.

21 Community service performed prior to the effective date of the Decision shall not be
22 accepted in fulfillment of this condition.

23 Any failure to fully comply with this term and condition of the Disciplinary Order shall
24 constitute unprofessional conduct and will subject Respondent's Physician's and Surgeon's
25 Certificate to further disciplinary action.

26 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
27 Decision, Respondent shall submit to the Board or its designee for its prior approval educational
28 program(s) or course(s) which shall not be less than 40 hours. The educational program(s) or

1 course(s) shall be aimed at the evaluation of trauma, and shall be Category I certified. The
2 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
3 the Continuing Medical Education (CME) requirements for renewal of licensure. Respondent
4 shall successfully complete the pre-approved educational program(s) or course(s) within one (1)
5 year of the effective date of this Decision.

6 Any failure to fully comply with this term and condition of the Disciplinary Order shall
7 constitute unprofessional conduct and will subject Respondent's Physician's and Surgeon's
8 Certificate to further disciplinary action.

9 4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
10 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
11 advance by the Board or its designee. Respondent shall provide the approved course provider
12 with any information and documents that the approved course provider may deem pertinent.
13 Respondent shall participate in and successfully complete the classroom component of the course
14 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
15 complete any other component of the course within one (1) year of enrollment. The medical
16 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
17 Medical Education (CME) requirements for renewal of licensure.

18 A medical record keeping course taken after the acts that gave rise to the charges in the
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
20 or its designee, be accepted towards the fulfillment of this condition if the course would have
21 been approved by the Board or its designee had the course been taken after the effective date of
22 this Decision.


23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than 15 calendar days after successfully completing the course, or not later than
25 15 calendar days after the effective date of the Decision, whichever is later.

26 Any failure to fully comply with this term and condition of the Disciplinary Order shall
27 constitute unprofessional conduct and will subject Respondent's Physician's and Surgeon's
28 Certificate to further disciplinary action.

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DATED:

ard of California.


JAMILA DANISHWAR, M.D.
Respondent

DATED:


CARLO COPPO, ESQ.
Attorney for Respondent

Dated:

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

8

Exhibit A

Accusation No. 800-2014-005866

1 XAVIER BECERRA
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2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 24 20 17
BY ANALYST

10
11 BEFORE THE
MEDICAL BOARD OF CALIFORNIA
12 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2014-005866

14 JAMILA DANISHWAR, M.D.
15 2185 Citracado Parkway
Escondido, CA 92029

ACCUSATION

16 Physician's and Surgeon's Certificate
17 No. A102800,

18 Respondent.

19
20 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about February 22, 2008, the Medical Board issued Physician's and Surgeon's
26 Certificate No. A102800 to Jamila Danishwar, M.D. (respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on August 31, 2019, unless renewed.

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4. Section 2227 of the Code states:

“(1) Have his or her license revoked upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

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1 5. Section 2234 of the Code, states:

2 "The board shall take action against any licensee who is charged with
3 unprofessional conduct. In addition to other provisions of this article,
4 unprofessional conduct includes, but is not limited to, the following:

5 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
6 abetting the violation of, or conspiring to violate any provision of this chapter.

7 "(b) Gross negligence.

8 "(c) Repeated negligent acts. To be repeated, there must be two or more
9 negligent acts or omissions. An initial negligent act or omission followed by a
10 separate and distinct departure from the applicable standard of care shall constitute
11 repeated negligent acts.

12 "(1) An initial negligent diagnosis followed by an act or omission medically
13 appropriate for that negligent diagnosis of the patient shall constitute a single
14 negligent act.

15 "(2) When the standard of care requires a change in the diagnosis, act, or
16 omission that constitutes the negligent act described in paragraph (1), including,
17 but not limited to, a reevaluation of the diagnosis or a change in treatment, and the
18 licensee's conduct departs from the applicable standard of care, each departure
19 constitutes a separate and distinct breach of the standard of care.

20 "..."

21 6. Section 2266 of the Code states:

22 "The failure of a physician and surgeon to maintain adequate and accurate
23 records relating to the provision of services to their patients constitutes
24 unprofessional conduct."

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Gross Negligence)**

27 7. Respondent has subjected her Physician's and Surgeon's Certificate No. A102800 to
28 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of

1 the Code, in that she committed gross negligence in her care and treatment of patient J.G., as
2 more particularly alleged hereinafter:

3 8. On or about November 10, 2011, patient J.G. was transported to the emergency room
4 (ER) by paramedics after she was involved in a motor vehicle accident, where she was reportedly
5 T-boned on the driver's side at approximately 35 miles per hour. Patient J.G. had been able to
6 extricate herself from the vehicle, but was placed in cervical spine precautions by the paramedics,
7 including a cervical collar and backboard, prior to transport.

8 9. At approximately 1:33 p.m., the patient arrived at the ER, with complaints of neck
9 pain, pain between her scapulae, and numbness to her right fingers. Patient J.G. reported her pain
10 level to be an 8 out of 10. Patient J.G. was briefly evaluated by Dr. P.B., who removed her from
11 the cervical collar and backboard just prior to the end of his shift.

12 10. Patient J.G.'s care was then assumed by respondent, who had just come on shift.
13 Respondent proceeded to take a history from the patient. At that time, the patient revealed that
14 she was being treated for ankylosing spondylitis,¹ that her upper cervical pain was new since the
15 accident, and that she was experiencing intermittent numbness in her fingers on the right side.

16 11. During her physical examination, respondent noted tenderness over the C2-C3 region
17 with no step-offs, and upper thoracic spine tenderness.

18 12. Respondent treated patient J.G.'s pain with Dilaudid (Hydromorphone) and Toradol
19 (Ketorolac), and ordered radiologic imaging of the patient's cervical spine and chest.

20 13. At approximately 3:10 p.m., x-rays were taken as ordered. Respondent reviewed the
21 radiologist's preliminary impression of the x-rays, which noted that "C6-C7 not visible otherwise
22 no fractures.^[2]"

23 14. At approximately 3:30 p.m., respondent reevaluated the patient. At that time, patient
24 J.G. indicated she was feeling better and was experiencing less pain. Respondent noted the

25
26 ¹ Ankylosing spondylitis is an inflammatory arthritis affecting the spine and large joints.

27 ² The radiologist's formal report became available some time later and indicated, in part,
28 "Suboptimal evaluation of the lower aspect of the cervical spine. Specifically the C6 and C7 levels.
Consider further evaluation with CT..."

1 patient had no tenderness or step-offs in the lower cervical spine, and discharged the patient with
2 instructions to follow-up with her primary care physician, and to return to the ER for worsening
3 pain, weakness, or numbness in the extremities.

4 15. Patient J.G.'s medical chart for the care rendered by respondent on or about
5 November 10, 2011, did not initially contain a History of Present Illness (HPI).³ In addition, the
6 review of systems section did not contain pertinent positive or negative findings, the physical
7 examination section did not contain a complete neurological examination, and the medical
8 decision-making was not thoroughly documented.

9 16. On or about November 15, 2011, patient J.G. continued to experience persistent
10 symptoms of pain and numbness, and presented to her primary care physician (PCP). Her PCP
11 ordered an MRI, which was taken on or about November 16, 2011. The MRI results raised
12 concerns for traumatic anterolisthesis⁴ of C6 and C7, and patient J.G. was then instructed to
13 return to the ER for further care.

14 17. On or about November 17, 2011, patient J.G. returned to the ER and was seen by Dr.
15 B.F. In or around that time, Dr. B.F. noted that respondent had not completed the HPI section in
16 patient J.G.'s medical chart on or about November 10, 2011, and contacted respondent by phone
17 to inform her that her note was incomplete. Shortly after receiving that call, respondent entered
18 an addendum in the patient's chart to include the HPI. The HPI was documented from
19 respondent's memory, and did not contain any reference to the patient's pre-existing ankylosing
20 spondylitis.

21 18. While in the ER on or about November 17, 2011, a CT scan was obtained from
22 patient J.G., which showed a fracture dislocation at C6-C7 with grade 3 anterolisthesis. Patient
23 J.G. was then transferred to Palomar Medical Center as a trauma activation.

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25 _____
26 ³ The HPI was completed by respondent approximately one week later when the patient was
readmitted to the ER.

27 ⁴ Anterolisthesis is a spine condition in which the upper vertebral body slips forward onto the
28 vertebra below. The amount of slippage is graded on a scale from 1 to 4.

1 19. After being transported to Palomar Medical Center, patient J.G. continued to
2 experience deterioration of the neurologic status of her lower extremities. On or about November
3 18, 2011, after submitting to multiple procedures, patient J.G. developed acute quadriparesis that
4 did not resolve.

5 20. Respondent committed gross negligence in her care and treatment of patient J.G. by
6 failing to obtain appropriate and adequate imaging of the patient's cervical spine.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Repeated Negligent Acts)**

9 21. Respondent has further subjected her Physician's and Surgeon's Certificate No.
10 A102800 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
11 subdivision (c), of the Code, in that she committed repeated negligent acts in her care and
12 treatment of patient J.G., as more particularly alleged hereinafter:

13 22. Paragraphs 7 through 20, above, are hereby incorporated by reference and re-alleged
14 as if fully set forth herein.

15 23. Respondent committed repeated negligent acts in her care and treatment of patient
16 J.G. which included, but was not limited to, the following:

17 (a) Failing to obtain appropriate and adequate imaging of the patient's cervical
18 spine;

19 (b) Failing to properly document a History of Present Illness and pertinent positive
20 and negative findings in the Review of Systems in the patient's chart; and

21 (c) Failing to maintain cervical spinal immobilization precautions on the patient in
22 the presence of acute neck pain, focal neurologic complaints, and history of trauma.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Adequate and Accurate Records)**

25 24. Respondent has further subjected her Physician's and Surgeon's Certificate No.
26 A102800 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
27 Code, in that she failed to maintain adequate and accurate records relating to her care and

28 ///

1 treatment of patient J.G., as more particularly alleged in paragraphs 7 through 23, above, which
2 are hereby incorporated by reference and re-alleged as if fully set forth herein.

3 **PRAYER**

4 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Medical Board of California issue a decision:

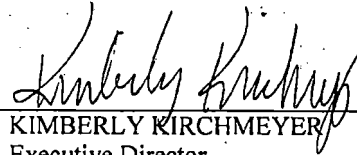
6 1. Revoking or suspending Physician's and Surgeon's Certificate No. A102800, issued
7 to respondent Jamila Danishwar, M.D.;

8 2. Revoking, suspending or denying approval of respondent Jamila Danishwar, M.D.'s
9 authority to supervise physician assistants and advanced practice nurses;

10 3. Ordering respondent Jamila Danishwar, M.D., if placed on probation, to pay the
11 Board the costs of probation monitoring; and

12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: May 24, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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